

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

EXPRESS MAIL NO. EL867653669US

Applicant : Jayasenan Sundara Ganesh, et al.  
Application No. : to be assigned  
Filed : December 7, 2001  
Title : NETWORK SWITCHING DEVICE WITH FORWARDING  
DATABASE TABLES POPULATED BASED ON USE  
Docket No. : 47558/JEC/X2

PRELIMINARY AMENDMENT

Assistant Commissioner for Patents  
Washington, D.C. 20231

Post Office Box 7068  
Pasadena, CA 91109-7068  
December 20, 2001

Commissioner:

Prior the examination of the above-referenced application, please amend the application as follows:

In the Specification:

On page 1, line 4, please insert the following section:

CROSS-REFERENCE OF APPLICATIONS

This application is a continuation of U.S. Patent Serial No. 09/166,604, filed October 5, 1998, the content of which is hereby incorporated by reference.

REMARKS

Claims 1-18 are currently pending in this application. In the parent application, the Examiner rejected claims 1-5 under 35 U.S.C. 103(a) as being unpatentable over Michels et al. (U.S. Patent No. 6,616,144). The Examiner also rejected claim 6 under 35 U.S.C. 103(a) over Michels et al. in view of Rajan et al. (U.S. Patent No. 5,940,596). Applicant requests that Michels et al. be disqualified as prior art under 35 U.S.C. § 103(c).

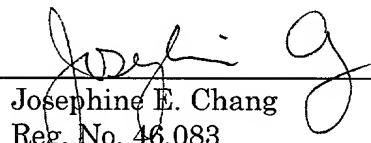
Effective November 29, 1999, § 103(c) was amended to add that subject matter that only qualifies as prior art under 35 U.S.C 102(e) and was commonly owned, or subject to an obligation of assignment to the same person, at the time the invention was made cannot be applied in a rejection under 35 U.S.C. 103(a). Enclosed are copies of assignments and notices of recordations for Michels et al. and the present application establishing their common ownership by Packet Engines Incorporated. The assignment of Michels et al. to Packet Engines was recorded in the Assignment Division of the Patent and Trademark Office on October 28, 1998, on reel 9581, frame 0813. The assignment of the present application to Packet Engines was recorded in the Assignment Division of the Patent and Trademark Office on October 28, 1998, on reel 9581, frame 0803. Thus, Michels et al. and the present application are commonly owned. Michels et al. must therefore be disqualified as prior art under 35 U.S.C. § 103(c).

In view of the foregoing remarks, Applicant respectfully requests that this Preliminary Amendment be entered, and that claims pending in this application be allowed.

Respectfully submitted,

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JEC/daa